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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,226

09/28/2005

Thomas Mang

053125

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38834

7590

03/28/2008

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON, DC 20036

EXAMINER

ZEMEL, IRINA SOPHIA

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

03/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/551,226	Applicant(s) MANG, THOMAS	
	Examiner Irina S. Zemel	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/28/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

Claim 6 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention, more specifically, "USE" of a product does not fall within at least one of the four categories of patent eligible subject matter recited in 35 U.S.C. 101 (process, machine, manufacture, or composition of matter).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,358,580 to Mang et al., (hereinafter Mang") or US patent 5,011,875 to Yamamoto et al., (hereinafter "Yamamoto" in combination with either one of US Patent 5,837,789 to Stockhausen et al., (hereinafter "Stockhausen") or US Patent 6,136,873 to Hahle et al., (hereinafter "Hahle").

Both primary references disclose compositions suitable for use as sealing composition, which compositions swell upon exposure with water. The compositions comprise a rubbery matrix and a particulate water absorbing material dispersed in the matrix. The rubbery matrix disclosed in both references is a crosslinked elastomeric

Art Unit: 1796

matrix (see Mang, column 3, line 59 to column 4, line 5; Yamamoto, column 1, lines 51-61 and examples disclosing vulcanization of rubber). Both references further expressly disclose foams of low density obtained from the compositions. The Yamamoto reference discloses various water absorbent polymers suitable for his invention, but does not expressly disclose the polymers that contains the claimed polyalkylene glycole acrylate units. Similarly, while the Mang reference disclose acrylic based water absorbent polymers (in particulate form), the reference does not disclose the specifically claimed polymers containing the claimed polyalkylene glycole acrylate units. Water absorbable particulate material of the small size (fully corresponding to the claimed size) are known in the art, as for example, per disclosure of Stockhausen or Hahle, which crosslinked particulate materials (polymers that include the claimed polyalkylene glycole acrylate) exhibit improved absorbence and are suitable for many applications where high liquid absorbence and liquid retention is desired. Therefore, it would have been obvious to use the known water absorbent particles (polymers that include polyalkylene glycole acrylate) disclose in both Hahle and Stockhausen (and which fully correspond to the claimed particles in both the size and the chemical structure) for their known function as highly absorbent materials in compositions of both Yamamoto or Mang (which compositions utilize absorbent polymers and specifically seek high water absorption properties in the final products) with reasonable expectation of success, absent showing of unexpected results that can be attributed to the use of the claimed absorbent particles (which, as discussed above, are KNOWN for their function as absorbents).

It is noted that no comparative examples demonstrating unexpected advantages of the claimed compositions are presented on the record. Therefore, the invention as claimed would have been obvious from the combined teachings of the cited references for the reasons set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina S. Zemel whose telephone number is (571)272-0577. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571)272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Irina S. Zemel/
Primary Examiner, Art Unit 1796

Irina S. Zemel
Primary Examiner
Art Unit 1796

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Application/Control Number: 10/551,226
Art Unit: 1796

Page 5